IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 33444 of 1998

Between:

Mr. Ranga Prasad S/o. Sri C. Swamy, aged about 35 years,Ex.Lance Naik,C/o. Mahadeviah, No.100, 5th Cross, Ashokpuram Harijan Street, Nanjangud Town, Mysore District. **..... PETITIONER**

AND

1. The Deputy Inspector General South Zone, Central Industrial Security Force, Rajaji Bhavan, D Block, Basant Nagar, CHENNAI-90

2. The Commandant, CISF Unit SCCL Headquarters, Bellampalli - 504 251, Adilabad, A.P.

3. The Deputy Commandant, CISF Unit, Bellampalli, SCCL Headquarters, Adilabad, A.P. - 504 251

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Certiorari to the Respondents Calling for the records relating to the Order No.V-15014/CISF/SCCL/HD/RP/97-9780Dt 20-10-97 passed by the Respondent No.2 and the Order No.V-11014/58/98/LCR/32/1310 Dt. 3-3-98 passed by the Respondent No.1 and quash the said orders and consequently issue directions to Respondents No. 2 & 3 to reinstate the petitioner in his official post by extending all the other consequential benefits and issue any other writ or direction in the nature of Writ as this Hon'ble Court deems fit and proper in the circumstances.

Counsel for the Petitioner: SMT.C.JAYASREE SARATHY

Counsel for the Respondent No.: Mr. M. Ganga Ram, S.C.for CISF

The Court made the following:

O R D E R:

This Writ Petition is filed against the Order dated 20.10.1997 passed by the 2nd respondent dismissing the petitioner from service, which was confirmed in appeal by the 1st respondent in his proceedings dated 3.3.1998.

The petitioner was initially appointed as constable in Central Industrial Security Force (CISF) with effect from 25.3.1982 and subsequently he was also promoted as Lance Naik in the year 1996. While so on 16.4.1997 during lunch hour, the petitioner was found in an intoxicated condition and he created nuisance in the canteen and was breaking the windowpanes. After conducting a detailed enquiry into the matter and following the due process of law, the petitioner was removed by an order dated 20.10.1997 passed by the Commandant, Central Industrial Security Force, CISF Unit SCCL (Headquarters), Bellampalli, Adilabad District, Andhra Pradesh. Aggrieved by the same, the petitioner filed an appeal, which was dismissed by the Deputy Inspector General, South Zone, Central Industrial Security Force, Rajaji Bhavan, D-Block, Basant Nagar, Chennai-90. Challenging the same the present Writ Petition is filed.

As many as seven charges were framed against the petitioner and all of them are off-shoot of the incident dated 16.4.1997 at 16.00 hours when he went to Area Wet Canteen after having consumed liquor and created a very bad scene and abused his superior in an un-parliamentary language.

The learned counsel for the petitioner submits that in fact the request made by the petitioner through representation dated 27.9.1997

asking the authorities to award minimum penalty and assuring that he would not indulge in such mis-conducts in future was taken as evidence against him and he was punished with ultimate penalty of dismissal from service. The learned counsel for the petitioner further submits that assuming that all the charges are proved, the punishment of removal from service is disproportionate to that of the misconduct.

Per contra the learned counsel for the respondent submits that the petitioner does not deserve for any relief in this writ petition. In fact, the petitioner involved in some misconduct earlier and he was removed from service and only on the intervention of the Appellate Authority, he was reinstated into service and in spite of it, he did not mend his ways.

As noticed, at the earliest point of time, the petitioner made a representation on 27.9.1997 and requested the Disciplinary Authority to impose some minimum punishment and he assured that he would not repeat such acts in future. At the time of removal from service i.e. as on 20.10.1997, the petitioner was put in more than 15 years of service. Since the petitioner realised his mistake and asked for pardon by imposing of a minimum punishment, the authority might have taken a lenient view of matter and at least could have ordered for compulsory retirement instead of imposing ultimate punishment of dismissal from service. I am of the considered view that the petitioner being young and when he was not on duty and he went to Area Wet Canteen and behaved in that particular manner as charged, he was supposed to behave decently, which he did not do so. When the misconduct arose outside employment, the respondents ought to have taken the lenient view of the matter and at least would have directed the petitioner to go on compulsory retirement. So that he would have got at least some pension for the service rendered by him.

This is only a case of misbehavior of the petitioner after duty hours, of course within the premises of the work place. Therefore, I

am of the opinion that the penalty imposed by the respondents is disproportionate to that of the misconduct, particularly when the petitioner himself conceded to the fact and begged pardon and for minimum penalty. Instead of remanding the matter back for re-consideration at this length of time, I feel that it is appropriate to give a quietus to this litigation here itself. For all the above reasons the impugned proceedings dated 20.10.1997 as confirmed by the Appellate Authority on 3.3.1998 are set aside and the petitioner shall be treated to have retired compulsorily and he shall be imposed with punishment of compulsory retirement from 20.10.1997 and he shall have pension and all other benefits for which he is entitled for.

The Writ Petition is allowed to the extent indicated above. No order as costs.

8th October 2004

BCS

To

1. The Deputy Inspector General South Zone, Central Industrial Security Force, Rajaji Bhavan, D Block, Basant Nagar, CHENNAI-90

2. The Commandant, CISF Unit SCCL Headquarters, Bellampalli - 504 251, Adilabad, A.P.

3. The Deputy Commandant, CISF Unit, Bellampalli, SCCL Headquarters, Adilabad, A.P. - 504 251

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